

**CHAPTER 179**

STATE AND LOCAL GOVERNMENT  
FINANCIAL AND REGULATORY MATTERS —  
APPROPRIATIONS AND MISCELLANEOUS CHANGES

H.F. 882

**AN ACT** relating to state and local finances by providing for tax exemptions, credits, tax credit transfers, and other tax-related matters and by making, reducing, and transferring appropriations, providing for fees, providing for wind energy production tax credits, and providing for properly related matters and penalties and including effective and retroactive applicability date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

DIVISION I  
MH/MR/DD ALLOWED GROWTH FUNDING

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ALLOCATIONS — FISCAL YEAR 2006-2007.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, as provided in this section in lieu of the provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... \$ 35,788,041

2. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2006-2007, and is allocated as follows:

a. For distribution to counties for fiscal year 2005-2006 in accordance with the formula in section 331.438, subsection 2, paragraph “b”:

..... \$ 12,000,000

b. For deposit in the per capita expenditure target pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 1:

..... \$ 19,361,148

c. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2:

..... \$ 2,000,000

d. For distribution to counties as cost share for county coverage of services to adult persons with brain injury in accordance with the law enacted as a result of the provisions of 2005 Iowa Acts, House File 876,<sup>1</sup> or other law providing for such coverage to commence in the fiscal year beginning July 1, 2006:

..... \$ 2,426,893

DIVISION II  
STANDING APPROPRIATIONS

Sec. 2. BUDGET PROCESS FOR FISCAL YEAR 2006-2007.

1. For the budget process applicable to the fiscal year beginning July 1, 2006, on or before October 1, 2005, in lieu of the information specified in section 8.23, subsection 1, unnumbered paragraph 1, and paragraph “a”, all departments and establishments of the government shall

<sup>1</sup> Not enacted

transmit to the director of the department of management, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, together with supporting data and explanations as called for by the director of the department of management after consultation with the legislative services agency.

2. The estimates of expenditure requirements shall be in a form specified by the director of the department of management, and the expenditure requirements shall include all proposed expenditures and shall be prioritized by program or the results to be achieved. The estimates shall be accompanied by performance measures for evaluating the effectiveness of the programs or results.

Sec. 3. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the amounts appropriated from the general fund of the state pursuant to those sections for the following designated purposes shall not exceed the following amounts:

1. For instructional support state aid under section 257.20:	\$	14,428,271
2. For at-risk children programs under section 279.51, subsection 1:	\$	11,271,000
The amount of any reduction in this subsection shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs "a", "b", and "c".		
3. For payment for nonpublic school transportation under section 285.2:	\$	8,273,763
If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this section, the department of education shall prorate the amount of each claim.		
4. For the educational excellence program under section 294A.25, subsection 1:	\$	55,469,053
5. For the state's share of the cost of the peace officers' retirement benefits under section 411.20:	\$	2,745,784
6. For payment of livestock production tax credit refunds under section 422.121:	\$	1,770,342

Sec. 4. PROPERTY TAX CREDIT FUND — PAYMENTS IN LIEU OF GENERAL FUND REIMBURSEMENT.

1. Notwithstanding section 8.57, prior to the appropriation and distribution to the cash reserve fund of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2004, and ending June 30, 2005, pursuant to section 8.57, subsection 1, of that surplus, \$159,663,964 is appropriated to the property tax credit fund which shall be created in the office of the treasurer of state to be used for the purposes of this section.

2. Notwithstanding the amount of the standing appropriation from the general fund of the state in the following designated sections and notwithstanding any conflicting provisions or voting requirements of section 8.56, there is appropriated from the property tax credit fund in lieu of the appropriations in the following designated sections for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amounts for the following designated purposes:

a. For reimbursement for the homestead property tax credit under section 425.1:	\$	102,945,379
b. For reimbursement for the agricultural land and family farm tax credits under sections 425A.1 and 426.1:	\$	34,610,183
c. For reimbursement for the military service tax credit under section 426A.1A:	\$	2,568,402

d. For implementing the elderly and disabled tax credit and reimbursement pursuant to sections 425.16 through 425.40:

..... \$ 19,540,000

If the director determines that the amount of claims for credit for property taxes due plus the amount of claims for reimbursement for rent constituting property taxes paid which are to be paid during the fiscal year may exceed the amount appropriated, the director shall estimate the percentage of the credits and reimbursements which will be funded by the appropriation. The county treasurer shall notify the director of the amount of property tax credits claimed by June 8. The director shall estimate the percentage of the property tax credit and rent reimbursement claims that will be funded by the appropriation and notify the county treasurer of the percentage estimate by June 15. The estimated percentage shall be used in computing for each claim the amount of property tax credit and reimbursement for rent constituting property taxes paid for that fiscal year. If the director overestimates the percentage of funding, claims for reimbursement for rent constituting property taxes paid shall be paid until they can no longer be paid at the estimated percentage of funding. Rent reimbursement claims filed after that point in time shall receive priority and shall be paid in the following fiscal year. If the director underestimates the percentage of funding, the overage shall remain in the fund established in section 425.39 for payments to be made in the next fiscal year.

Sec. 5. Section 8.8, Code 2005, is amended to read as follows:

8.8 SPECIAL OLYMPICS FUND — APPROPRIATION.

A special olympics fund is created in the office of the treasurer of state under the control of the department of management. There is appropriated annually from the general fund of the state to the special olympics fund ~~thirty~~ fifty thousand dollars for distribution to one or more organizations which administer special olympics programs benefiting the citizens of Iowa with disabilities.

Sec. 6. Section 257.35, subsection 4, Code 2005, is amended to read as follows:

4. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, ~~2004~~ 2005, shall be reduced by the department of management by eleven million seven hundred ninety-eight thousand seven hundred three dollars. The reduction for each area education agency shall be equal to the reduction that the agency received in the fiscal year beginning July 1, 2003.

Sec. 7. CASH RESERVE APPROPRIATION FOR FY 2005-2006. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph “a”, shall not be made. However, any surplus in the general fund of the state for the fiscal year beginning July 1, 2005, and ending June 30, 2006, shall be transferred to the cash reserve fund.

Sec. 8. EFFECTIVE DATE. The section of this division of this Act creating the property tax credit fund, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
OTHER APPROPRIATIONS

Sec. 9. DEPARTMENT OF CULTURAL AFFAIRS — NONPROFIT MUSIC ENTITIES. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2005, and ending June 30, 2006, twenty-five thousand dollars for purposes of providing two twelve thousand five hundred dollar grants to nonprofit music entities. A recipient of a grant shall be a nonprofit entity that is formed with members including local musicians, music promoters, representatives of music venues and businesses, community leaders, and live music enthusiasts who discuss, assess, and expedite the imple-

mentation of a unified music agenda for a local community and aggressively advocates, sponsors, and develops an independent, progressive live music economy in a local community.

Sec. 10. PKU ASSISTANCE. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of special food needed:  
..... \$ 100,000

Sec. 11. HEALTHY IOWANS TOBACCO TRUST — PKU ASSISTANCE. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of special food needed:  
..... \$ 60,000

Sec. 12. ENRICH IOWA LIBRARIES PROGRAM. There is appropriated from the rebuild Iowa infrastructure fund to the department of education for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary:

To provide resources for structural and technological improvements to local libraries and for the enrich Iowa program, notwithstanding section 8.57, subsection 6, paragraph “c”:  
..... \$ 200,000

Sec. 13. DEPARTMENT OF EDUCATION — COMMUNITY COLLEGES. There is appropriated from the rebuild Iowa infrastructure fund to the department of education for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For major renovation and major repair needs, including health, life, and fire safety needs, and for compliance with the federal Americans With Disabilities Act, for state buildings and facilities under the purview of the community colleges:

FY 2006-2007 ..... \$ 2,000,000  
FY 2007-2008 ..... \$ 2,000,000  
FY 2008-2009 ..... \$ 2,000,000

The moneys appropriated in this section shall be allocated to the community colleges based upon the distribution formula established in section 260C.18C, if enacted by 2005 Iowa Acts, House File 816.<sup>2</sup>

Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 14. CIVIL AIR PATROL. There is appropriated from the general fund of the state to the homeland security and emergency management division of the department of public safety<sup>3</sup> for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa civil air patrol:  
..... \$ 100,000

Sec. 15. HEALTHY IOWANS TOBACCO TRUST — AIDS DRUG ASSISTANCE PROGRAM. There is appropriated from the healthy Iowans tobacco trust created in section 12.65

<sup>2</sup> Chapter 169, §24 herein

<sup>3</sup> The phrase “public defense” probably intended

to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For additional funding to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants:  
..... \$ 275,000

Sec. 16. GREAT PLACES. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2004, and ending June 30, 2005, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 100,000

Notwithstanding section 8.33, any moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 17. UNDERGROUND STORAGE TANK FUND — WATERSHED IMPROVEMENT FUND — FY 2005-2006. Notwithstanding section 455G.3, subsection 1, there is appropriated from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, subsection 1, to the office of the treasurer of state during the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the watershed improvement fund created in 2005 Iowa Acts, Senate File 200,<sup>4</sup> if enacted:  
..... \$ 5,000,000

Moneys in the watershed improvement fund are appropriated for the fiscal year beginning July 1, 2005, and ending June 30, 2006, to fulfill the duties of the watershed improvement review board, if enacted by 2005 Iowa Acts, Senate File 200.<sup>5</sup>

Sec. 18. 2005 Iowa Acts, House File 809,<sup>6</sup> section 2, subsection 1, paragraph a, if enacted, is amended to read as follows:

a. General administration

For salaries, support, maintenance, miscellaneous purposes, programs, for the transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

..... \$ 1,956,332  
..... 1,841,332  
..... FTEs 28.75

Sec. 19. 2005 Iowa Acts, House File 862,<sup>7</sup> section 1, subsection 2, paragraph h, unnumbered paragraph 1, and paragraph i, unnumbered paragraph 1, if enacted, are amended to read as follows:

For a grant program to provide substance abuse prevention programming for children:

..... \$ 400,000  
..... 200,000

For a grant to a program that utilizes high school mentors to teach life skills, violence prevention, and character education in an effort to reduce the illegal use of alcohol, tobacco, and other substances:

..... \$ 400,000  
..... 200,000

<sup>4</sup> Chapter 159 herein

<sup>5</sup> Chapter 159 herein

<sup>6</sup> Chapter 170 herein

<sup>7</sup> Chapter 176 herein

Sec. 20. 2005 Iowa Acts, House File 862,<sup>8</sup> section 1, subsection 2, paragraph j, if enacted, is amended to read as follows:

j. For a grant program to provide substance abuse prevention programming, including tobacco use prevention programming, for children:

.....	\$	800,000
		<u>400,000</u>

The Iowa department of public health shall utilize a request for proposals process to implement this paragraph "j". A program approved for a grant under paragraph "h" or paragraph "i" shall not be eligible for a grant under this paragraph "j".

Eligible grant applicants shall include, but shall not be limited to, mentoring organizations and organizations that practice and implement nationally accepted standards for mentoring programs.

All grant recipients shall participate in a program evaluation as a requirement for receiving grant funds.

Sec. 21. NATIONAL GOVERNORS ASSOCIATION MEETING. 2004 Iowa Acts, chapter 1175, section 12, subsection 4, as amended by 2005 Iowa Acts, House File 810,<sup>9</sup> if enacted, is amended to read as follows:

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

.....	\$	364,393
		<u>164,393</u>

Of the funds appropriated in this subsection, ~~\$300,000~~ \$100,000 is allocated for security-related costs and other expenses associated with the national governors association national meeting. Notwithstanding section 8.33, the moneys allocated for the meeting that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 22. 2005 Iowa Acts, House File 881,<sup>10</sup> section 5, unnumbered paragraph 1, if enacted, is amended to read as follows:

There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, excluding the state board of regents, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount of ~~\$38,500,000~~ 40,900,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

Sec. 23. 2001 Iowa Acts, chapter 174, section 1, subsection 2, as amended by 2002 Iowa Acts, chapter 1174, section 8, 2003 Iowa Acts, chapter 179, section 38, and 2004 Iowa Acts, chapter 1175, section 270, is amended to read as follows:

2. There is appropriated from the general fund of the state to the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12, for the designated fiscal years, the following amounts, to be used for the purposes specified in section 12E.12 for the endowment for Iowa's health account:

FY 2001-2002 .....	\$	7,248,000
FY 2003-2004 .....	\$	0
FY 2004-2005 .....	\$	0
FY 2005-2006 .....	\$	<u>29,562,000</u>
		<u>0</u>
FY 2006-2007 .....	\$	17,773,000

Sec. 24. Section 8.55, subsection 2, paragraphs b and d, Code 2005, are amended by striking the paragraphs.

<sup>8</sup> Chapter 176 herein

<sup>9</sup> Chapter 173, §25 herein

<sup>10</sup> Chapter 177 herein

Sec. 25. Section 8.55, subsection 2, paragraph c, Code 2005, is amended to read as follows:  
 c. Notwithstanding paragraph "a", any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of each fiscal year ~~and after the appropriate amount has been transferred pursuant to paragraph "b"~~, shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed one hundred eighteen million dollars.

Sec. 26. Section 256D.5, subsection 4, Code 2005, is amended to read as follows:

4. For each fiscal year of the fiscal year period beginning July 1, 2004, and ending June 30, ~~2005~~ 2006, the sum of twenty-nine million two hundred fifty thousand dollars.

Sec. 27. Section 490A.131, subsection 5, if enacted by 2005 Iowa Acts, House File 859,<sup>11</sup> section 109, is amended to read as follows:

5. The first biennial report shall be delivered to the secretary of state between January 1 and April 1 of the first ~~odd-numbered~~ even-numbered year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state between January 1 and April 1 of the following ~~odd-numbered~~ even-numbered calendar years. A filing fee for the biennial report shall be determined by the secretary of state and deposited into the general fund of the state. For purposes of this section, each biennial report shall contain information related to the two-year period immediately preceding the calendar year in which the report is filed.

Sec. 28. Section 292.4, Code 2005, is repealed.

Sec. 29. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this division of this Act repealing section 292.4, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

2. The sections of this division of this Act appropriating moneys to the department of cultural affairs for great places and amending 2004 Iowa Acts, chapter 1175, section 12, subsection 4, being deemed of immediate importance, take effect upon enactment.

DIVISION IV  
 APPROPRIATION REVISIONS

Sec. 30. JOBS FOR AMERICA'S GRADUATES. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For school districts to provide direct services to the most at-risk senior high school students enrolled in school districts through direct intervention by a jobs for America's graduates specialist:

..... \$ 400,000

Sec. 31. DEPARTMENT OF ADMINISTRATIVE SERVICES — FINANCIAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of administrative services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For financial administration duties:

..... \$ 200,000

Sec. 32. DEPARTMENT OF MANAGEMENT — PERFORMANCE AUDITS. There is appropriated from the general fund of the state to the department of management for the fiscal

<sup>11</sup> Chapter 135 herein

year beginning July 1, 2005, and ending June 30, 2006, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For conducting performance audits and developing performance measures, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	216,000
.....	FTEs	2.50

Sec. 33. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. If 2005 Iowa Acts, House File 810,<sup>12</sup> is enacted and provides for an appropriation from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	13,195
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Sec. 34. DEPARTMENT OF INSPECTIONS AND APPEALS — ADMINISTRATION DIVISION. If 2005 Iowa Acts, House File 810,<sup>13</sup> is enacted and provides for an appropriation from the general fund of the state to the department of inspections and appeals, administration division, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	49,000
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Sec. 35. DEPARTMENT OF REVENUE — OPERATIONS. If 2005 Iowa Acts, House File 810,<sup>14</sup> is enacted and provides for an appropriation from the general fund of the state to the department of revenue for operations for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	25,882
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Sec. 36. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP — SOIL AND WATER CONSERVATION DISTRICTS. If 2005 Iowa Acts, House File 808,<sup>15</sup> is enacted and provides for an appropriation from the general fund of the state to the department of agriculture and land stewardship for purposes of reimbursing commissioners of soil and water conservation districts for expenses, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	50,000
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Sec. 37. COLLEGE STUDENT AID COMMISSION. If 2005 Iowa Acts, House File 816,<sup>16</sup> is enacted and provides for an appropriation from the general fund of the state to the college student aid commission for the national guard educational assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	75,000
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Sec. 38. DEPARTMENT OF MANAGEMENT. If 2005 Iowa Acts, House File 816<sup>17</sup> is enacted and provides for an appropriation from the general fund of the state to the department of management for allocation to the institute for tomorrow's workforce created under chapter 7K, if enacted by 2005 Iowa Acts, House File 816,<sup>18</sup> for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

.....	\$	100,000
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<sup>12</sup> Chapter 173 herein  
<sup>13</sup> Chapter 173 herein  
<sup>14</sup> Chapter 173 herein  
<sup>15</sup> Chapter 172 herein  
<sup>16</sup> Chapter 169 herein  
<sup>17</sup> Chapter 169 herein  
<sup>18</sup> Chapter 169, §17 herein

Sec. 39. IOWA DEPARTMENT OF PUBLIC HEALTH. If 2005 Iowa Acts, House File 825,<sup>19</sup> is enacted and provides for appropriations from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the following indicated purposes in 2005 Iowa Acts, House File 825,<sup>20</sup> those appropriations are reduced by the following amounts:

- 1. For environmental hazards:  
..... \$ 50,000
- 2. For injuries:  
..... \$ 50,000
- 3. For public protection:  
..... \$ 40,000

Sec. 40. MEDICAL ASSISTANCE APPROPRIATION. If 2005 Iowa Acts, House File 825,<sup>21</sup> is enacted and provides for an appropriation from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the medical assistance program, that appropriation is reduced by the following amount:

..... \$ 11,353,381

Sec. 41. SENIOR LIVING TRUST FUND APPROPRIATION. If 2005 Iowa Acts, House File 825,<sup>22</sup> is enacted and provides for an appropriation from the senior living trust fund to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, to supplement the medical assistance appropriation, that appropriation is increased by the following amount:

..... \$ 9,353,381

Sec. 42. DEPARTMENT OF HUMAN SERVICES. If 2005 Iowa Acts, House File 825,<sup>23</sup> is enacted and provides for appropriations from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2005, and ending June 30, 2006, for the following indicated purposes, those appropriations are reduced by the following amounts:

- 1. For the children’s health insurance program:  
..... \$ 50,000
- 2. For MI/MR/DD state cases:  
..... \$ 50,000

Sec. 43. DEPARTMENT OF JUSTICE — GENERAL OFFICE. If 2005 Iowa Acts, House File 811,<sup>24</sup> is enacted and provides for an appropriation from the general fund of the state to the department of justice for the department’s general office, that appropriation is reduced by the following amount:

..... \$ 25,000

Sec. 44. DEPARTMENT OF CORRECTIONS. If 2005 Iowa Acts, House File 811,<sup>25</sup> is enacted and provides for an appropriation from the general fund of the state to the department of corrections for offender substance abuse and mental health treatment for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... \$ 100,000

Sec. 45. DEPARTMENT OF PUBLIC SAFETY — BUILDING SECURITY. If 2005 Iowa Acts, House File 875,<sup>26</sup> is enacted and provides for an appropriation from the general fund of

<sup>19</sup> Chapter 175 herein  
<sup>20</sup> Chapter 175 herein  
<sup>21</sup> Chapter 175 herein  
<sup>22</sup> Chapter 175 herein  
<sup>23</sup> Chapter 175 herein  
<sup>24</sup> Chapter 174 herein  
<sup>25</sup> Chapter 174 herein  
<sup>26</sup> Chapter 178 herein

the state to the department of public safety for capitol building and judicial building security for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... \$ 25,000

Sec. 46. JUDICIAL BRANCH. If 2005 Iowa Acts, House File 807,<sup>27</sup> is enacted and provides for an appropriation from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2005, and ending June 30, 2006, that appropriation is reduced by the following amount:

..... \$ 50,000

Sec. 47. REGISTERED NURSE RECRUITMENT PROGRAM FUNDS. From the funds appropriated for tuition grants pursuant to section 261.25, subsection 1, for the fiscal year beginning July 1, 2005, up to fifty thousand dollars shall be used to provide forgivable loans as provided in section 261.23 to residents of Iowa who are registered nurses and who are seeking to become qualified as nursing faculty in Iowa and to teach in Iowa schools. To qualify for a forgivable loan pursuant to this section, in addition to the requirements of section 261.23, a person shall be enrolled at a not-for-profit accredited school of nursing that is located in this state.

Sec. 48. HEALTH FACILITIES COUNCIL.<sup>28</sup> If 2005 Iowa Acts, House File 810,<sup>29</sup> is enacted and includes an appropriation from the general fund of the state to the department of inspections and appeals for the health facilities council<sup>30</sup> for the fiscal year beginning July 1, 2005, and ending June 30, 2006, any provision of that appropriation designating the use of \$80,000 and a full-time equivalent position for a particular purpose shall not be applied.

Sec. 49. YOUTH ENRICHMENT PILOT PROJECT — YOUTH LEADERSHIP PROGRAM.

1. Of the funds appropriated in 2005 Iowa Acts, House File 807,<sup>31</sup> if enacted, from the general fund of the state to the judicial branch for purposes of a youth enrichment pilot project, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, \$50,000 is transferred to the department of corrections to be used for a youth leadership program in the sixth judicial district department of correctional services in accordance with subsection 2.

2. The moneys transferred pursuant to subsection 1 shall be used by the judicial district department of correctional services to establish or maintain a youth leadership model program to help at-risk youth in the judicial district department of correctional services. As a part of the program, the judicial district department of correctional services may recruit college or high school students in the judicial district to work with at-risk youth. The student workers shall be recruited regardless of gender, be recommended by their respective schools as good role models, including, but not limited to, students who possess capabilities in one or more of the following areas of ability: intellectual capacity, athletic, visual arts, or performing arts.

Sec. 50. CENTER FOR CONGENITAL AND INHERITED DISORDERS CENTRAL REGISTRY. Notwithstanding section 144.13A, subsection 4, paragraph “a”, for the fiscal year beginning July 1, 2005, \$40,000 of the fees collected by the state registrar that would otherwise be appropriated and used for the center for congenital and inherited disorders central registry established pursuant to section 136A.6 shall be credited to the general fund of the state.

#### DIVISION V MISCELLANEOUS STATUTORY CHANGES

Sec. 51. Section 8D.2, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. For the purposes of this chapter, “public agency” also includes any homeland security or defense facility or disaster response agency established by the administrator of the homeland

<sup>27</sup> Chapter 171 herein

<sup>28</sup> The word “DIVISION” probably intended

<sup>29</sup> Chapter 173 herein

<sup>30</sup> The word “division” probably intended

<sup>31</sup> Chapter 171 herein

security and emergency management division of the department of public defense or the governor or any facility connected with a security or defense system or disaster response as required by the administrator of the homeland security and emergency management division of the department of public defense or the governor.

Sec. 52. Section 8D.9, subsection 3, Code 2005, is amended to read as follows:

3. A facility that is considered a public agency pursuant to section 8D.2, subsection 5, paragraph "b", shall be authorized to access the Iowa communications network strictly for homeland security communication purposes and disaster communication purposes. Any utilization of the network that is not related to communications concerning homeland security or a disaster, as defined in section 29C.2, is expressly prohibited. Access under this subsection shall be available only if a state of disaster emergency is proclaimed by the governor pursuant to section 29C.6 or a homeland security or disaster event occurs requiring connection of disparate communications systems between public agencies to provide for a multiagency or multijurisdictional response. Access shall continue only for the period of time the homeland security or disaster event exists. For purposes of this subsection, disaster communication purposes includes training and exercising for a disaster if public notice of the training and exercising session is posted on the website of the homeland security and emergency management division of the department of public defense. A scheduled and noticed training and exercising session shall not exceed five days. Interpretation and application of the provisions of this subsection shall be strictly construed.

Sec. 53. Section 15E.193B, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If the eligible housing business is a partnership, S corporation, or limited liability company using low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development, the name of any partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company and the amount designated as allowed under subsection 8.

Sec. 54. Section 15E.193B, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. An eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V, or chapter 432. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust except as allowed for under subsection 8 when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development.

Sec. 55. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The amount of the tax credits determined pursuant to subsection 6, paragraph "a", for each

project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under subsection 5, paragraph “e”, to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the department of economic development shall issue a tax credit certificate to the eligible housing business except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the tax credit certificate may be issued to a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company in the amounts designated by the eligible partnership, S corporation, or limited liability company. An eligible housing business or the designated partner if the business is a partnership, designated shareholder if the business is an S corporation, or designated member if the business is a limited liability company, or transferee shall not claim the tax credit unless a tax credit certificate issued by the department of economic development is attached to the taxpayer’s return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer’s name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. The tax credit certificate shall be transferable if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of economic development along with a statement containing the transferee’s name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee’s statement, the department of economic development shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph “a”, until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 56. Section 124.212, subsection 4, paragraph c, as enacted by 2005 Iowa Acts, Senate File 169,<sup>32</sup> section 1, is amended to read as follows:

c. Pseudoephedrine. A person shall present a government-issued photo identification card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity.

Sec. 57. Section 142A.4, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 23. Approve the content of any materials distributed by the youth program pursuant to section 142A.9, prior to distribution of the materials.

Sec. 58. Section 257.14, subsection 3, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 59. Section 331.439, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 9. The county management plan shall designate at least one hospital licensed under chapter 135B that the county has contracted with to provide services covered under the plan. If the designated hospital does not have a bed available to provide the services,

<sup>32</sup> Chapter 15 herein

the county is responsible for the cost of covered services provided at an alternate hospital licensed under chapter 135B.

Sec. 60. Section 364.17, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. A schedule of civil penalties or criminal fines for violations. A city may charge the owner of housing a late payment fee of twenty-five dollars and may add interest of up to one and one-half percent per month if a penalty or fine imposed under this paragraph is not paid within thirty days of the date that the penalty or fine is due. The city shall send a notice of the late payment fee to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid penalty, fine, fee, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

Sec. 61. Section 364.17, subsection 5, Code 2005, is amended to read as follows:

5. Cities may establish reasonable fees for inspection and enforcement procedures. A city may charge the owner of housing a late payment penalty of twenty-five dollars and may add interest of up to one and one-half percent per month if a fee imposed under this subsection is not paid within thirty days of the date that the fee is due. The city shall send a notice of the late payment penalty to such owner by first class mail to the owner's personal or business mailing address. The late payment penalty and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid fee, penalty, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

Sec. 62. Section 384.16, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A budget must show comparisons between the estimated expenditures in each program in the following year ~~and the actual expenditures in each program during the two preceding years, the latest estimated expenditures in each program in the current year, and the actual expenditures in each program from the annual report as provided in section 384.22, or as corrected by a subsequent audit report.~~ Wherever practicable, as provided in rules of the committee, a budget must show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

Sec. 63. Section 384.16, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A city that does not submit a budget in compliance with this section shall have all state funds withheld until a budget that is in compliance with this section is filed with the county auditor and subsequently received by the department of management. The department of management shall send notice to state agencies responsible for disbursement of state funds and that notice is sufficient authorization for those funds to be withheld until later notice is given by the department of management to release those funds.

Sec. 64. Section 422.11D, subsection 2, Code 2005, is amended to read as follows:

2. An individual may claim a property rehabilitation tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate,

or trust except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the amount claimed by a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company shall be based on the amounts designated by the eligible partnership, S corporation, or limited liability company.

\*Sec. 65. Section 423.3, Code 2005, is amended by adding the following new subsection:  
NEWSUBSECTION. 29A. The sales price of all goods, wares, or merchandise sold, or of services furnished, which are used in the fulfillment of a written construction contract with a residential treatment facility for youth with emotional or behavioral disorders licensed pursuant to chapter 237 or 135H if all of the following apply:

- a. The sales and delivery of the goods, wares, or merchandise, or the services furnished occurred between July 1, 2004, and December 31, 2006.
- b. The written construction contract was entered into after December 31, 2003.
- c. The sales or services were purchased by a contractor as the agent for the facility or were purchased directly by the facility.\*

Sec. 66. Section 423E.5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes and the supplemental school infrastructure amount distributed pursuant to section 423E.4, subsection 2, paragraph "b", for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 423E.1, subsection 3. Bonds issued under this section may be sold at public ~~or private~~ sale as provided in chapter 75, or at private sale, without notice and hearing as provided in section 73A.12. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may be then outstanding. Bonds may be issued to refund outstanding and previously issued bonds under this section. Local option sales and services tax revenue bonds are a contract between the school district and holders, and the resolution issuing the bonds and pledging local option sales and services tax revenues to the payment of principal and interest on the bonds is a part of the contract. Bonds issued pursuant to this section shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to any other law relating to the authorization, issuance, or sale of bonds.

Sec. 67. Section 427.1, subsection 21, Code 2005, is amended to read as follows:

21. LOW-RENT HOUSING. The property owned and operated or controlled by a nonprofit organization, as recognized by the internal revenue service, providing low-rent housing for persons who are elderly and persons with physical and mental disabilities. The exemption granted under the provisions of this subsection shall apply only until the terms final payment due date of the borrower's original low-rent housing development mortgage or until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever

\* Item veto; see message at end of the Act

is sooner, subject to the provisions of subsection 14. However, if the borrower's original low-rent housing development mortgage is refinanced, the exemption shall apply only until the date that would have been the final payment due date under the terms of the borrower's original low-rent housing development mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner, subject to the provisions of subsection 14.

Sec. 68. Section 427.1, Code 2005, is amended by adding the following new subsection:  
**NEW SUBSECTION. 21A.** Dwelling unit property owned and managed by a nonprofit organization if the nonprofit organization owns and manages more than forty dwelling units that are located in a city with a population of more than one hundred ten thousand which has a public housing authority that does not own or manage housing stock for the purpose of low-rent housing.

Sec. 69. Section 427.1, subsection 30, Code 2005, is amended to read as follows:  
**30. MANUFACTURED HOME COMMUNITY OR MOBILE HOME PARK STORM SHELTER.** A structure constructed as a storm shelter at a manufactured home community or mobile home park as defined in section 435.1. An application for this exemption shall be filed with the assessing authority not later than February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure shall be assessed for taxation at ~~seventy-five~~ fifty percent of its value as commercial property.

Sec. 70. Section 456A.37, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. "Aquatic invasive species" means a species that is not native to an ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health including but not limited to habitat alteration and degradation, and loss of biodiversity. For the purposes of this section, "aquatic invasive species" are limited to Eurasian water milfoil, purple loosestrife, and zebra mussels, ~~except as provided in subsection 4 and those species identified as "aquatic invasive species" by the commission by rule.~~

Sec. 71. Section 456A.37, subsection 4, unnumbered paragraph 2, Code 2005, is amended to read as follows:

c. If the commission determines that an additional species should be defined as an "aquatic invasive species", the species ~~may shall~~ be defined by the commission by rule as an "aquatic invasive species" ~~subject to enactment of the definition by the general assembly at the next regular session of the general assembly. Failure of the general assembly to enact the definition pursuant to this paragraph constitutes a nullification of the definition effective upon adjournment of that next regular session of the general assembly.~~

Sec. 72. Section 543B.34, subsection 9, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Paying a commission or other valuable consideration or any part of such commission or consideration for performing any of the acts specified in this chapter to a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state or foreign country, ~~or paying a commission or other valuable consideration for performing any of the acts specified in this chapter to a licensee knowing that the licensee will pay a portion of or all of such commission or consideration to a person or party who is not licensed pursuant to this chapter,~~ provided that the provisions of this section shall not be construed to prohibit the payment of earned commissions or consideration to any of the following:

Sec. 73. Section 543B.60A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

543B.60A PROHIBITED PRACTICES.

1. A licensee shall not request a referral fee after a bona fide offer to purchase is accepted.
2. A licensee shall not request a referral fee after a bona fide listing agreement has been signed.
3. A licensee shall not offer, promote, perform, provide, or otherwise participate in any marketing plan that requires a consumer to receive brokerage services, including referral services, from two or more licensees in a single real estate transaction, as a required condition for the consumer to receive either of the following:
  - a. Brokerage services from one or more of such licensees.
  - b. A rebate, prize, or other inducement from one or more such licensees.
4. For purposes of this section, "consumer" shall include parties or prospective parties to a real estate transaction, clients or prospective clients of a licensee, or customers or prospective customers of a licensee.
5. This section does not address relationships between a broker and the broker associates or salespersons licensed under, employed by, or otherwise associated with the broker in a real estate brokerage agency.
6. A violation of this section is deemed a violation of section 543B.29, subsection 3.
7. The purpose of this section is to prohibit licensee practices that interfere with contractual arrangements, place improper restrictions on consumer choice, compromise a licensee's fiduciary obligations, and create conflicts of interest.

Sec. 74. Section 579A.2, subsection 3, paragraph b, Code 2005, is amended to read as follows:

- b. The lien terminates one year after the cattle have left the custom cattle feedlot. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the custom cattle feedlot operator who files a termination statement as provided in chapter 554, article 9.

Sec. 75. Section 579B.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

- b. For a lien arising out of producing a crop, the lien becomes effective the day that the crop is first planted. In order to perfect the lien, the contract producer must file a financing statement in the office of the secretary of state as provided in section 554.9308. The contract producer must file a financing statement for the crop within forty-five days after the crop is first planted. The lien terminates one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer. ~~Section 554.9515 shall not apply to a financing statement perfecting the lien.~~ The lien may be terminated by the contract producer who files a termination statement as provided in chapter 554, article 9.

Sec. 76. Section 602.10110, Code 2005, is amended to read as follows:  
602.10110 OATH.

All persons on being admitted to the bar shall take an oath or affirmation, as promulgated by the supreme court, declaring to support the Constitutions of the United States and of the state of Iowa, and to faithfully discharge, according to the best of their ability, the duties of an attorney and counselor of this state ~~according to the best of their ability~~.

Sec. 77. Section 692A.4A, if enacted by 2005 Iowa Acts, House File 619,<sup>33</sup> is amended to read as follows:

692A.4A ELECTRONIC MONITORING.

A person required to register under this chapter who is placed on probation, parole, work

<sup>33</sup> Chapter 158, §24 herein

release, special sentence, or any other type of conditional release, may be supervised by an electronic tracking and monitoring system in addition to any other conditions of supervision. However, if the person committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor, the person shall be supervised for a period of at least five years by an electronic tracking and monitoring system in addition to any other conditions of release.

Sec. 78. Section 692A.13A, subsection 1, unnumbered paragraph 1, if enacted by 2005 Iowa Acts, House File 619,<sup>34</sup> is amended to read as follows:

The department of corrections, the department of human services, and the department of public safety shall, in consultation with one another, develop methods and procedures for the assessment of the risk to reoffend for persons newly required to register under this chapter on or after the effective date of this division of this Act, who have committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor. The department of corrections, in consultation with the department of human services, the department of public safety, and the attorney general, shall adopt rules relating to assessment procedures. The assessment procedures shall include procedures for the sharing of information between the department of corrections, department of human services, the juvenile court, and the division of criminal investigation of the department of public safety, as well as the communication of the results of the risk assessment to criminal and juvenile justice agencies. The assignment of responsibility for the assessment of risk shall be as follows:

Sec. 79. Section 602.10112, Code 2005, is repealed.

Sec. 80. VEHICLE DEALERSHIP STUDY. The legislative council is requested to appoint an interim study committee that will study the motor vehicle licensing law as it pertains to motor vehicle dealerships' moves from one facility and location to another facility and location in the state. A report should be provided to the general assembly by January 15, 2006.

\*Sec. 81. *EFFECTIVE DATE. The section of this division of this Act enacting section 423.3, subsection 29A, being deemed of immediate importance, takes effect upon enactment.\**

Sec. 82. 2005 Iowa Acts, House File 739,<sup>35</sup> if enacted, is amended by adding the following new section:

NEW SECTION. Sec. \_\_. *EFFECTIVE DATE.* The section of this Act amending section 262.9 to establish a research triangle and clearinghouse takes effect July 1, 2006.

Sec. 83. BUDGET GUARANTEE RESOLUTION — RESOLUTION ADOPTION EXTENSION. Notwithstanding the provisions of section 257.14, subsection 3, unnumbered paragraph 3, a school district that wishes to receive a budget adjustment pursuant to that subsection for the school budget year beginning July 1, 2005, shall have until June 1, 2005, to adopt a resolution to receive the budget adjustment and to notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 84. APPLICABILITY PROVISION. The sections of this division of this Act amending section 427.1, subsection 21, and enacting new subsection 21A to section 427.1 shall not be considered property tax exemptions within the meaning of or for the purposes of section 25B.7.

Sec. 85. RETROACTIVE APPLICABILITY DATE. The section of this division of this Act amending section 423E.5, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

<sup>34</sup> Chapter 158, §30 herein

\* Item veto; see message at end of the Act

<sup>35</sup> Chapter 144 herein

Sec. 86. EFFECTIVE AND APPLICABILITY DATES. The sections of this division of this Act amending section 427.1, subsection 21, and enacting new subsection 21A to section 427.1, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2005, for assessment years beginning on or after that date.

Sec. 87. APPLICABILITY. Section 25B.7 does not apply to the amendment to section 427.1, subsection 30, in this division of this Act.

Sec. 88. EFFECTIVE DATE. The section of this division of this Act<sup>36</sup> providing an extension of time for adoption of a budget adjustment resolution pursuant to section 257.14, subsection 3, for a budget adjustment for the school budget year beginning July 1, 2005, being deemed of immediate importance, takes effect upon enactment.

Sec. 89. EFFECTIVE DATE. The sections of this division of this Act amending section 602.10110 and repealing section 602.10112, being deemed of immediate importance, take effect upon enactment.

#### DIVISION VI EDUCATION

Sec. 90. Section 11.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, ~~and~~ the certified enrollment as provided in section 257.6, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.60. Differences in certified enrollment shall be reported to the department of management. The examination of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include an audit of the city's compliance with section 388.10. The examination of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include an audit of the city's compliance with section 388.10.

Sec. 91. Section 256.9, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 53. Prepare and submit to the chairpersons and ranking members of the senate and house education committees a report on the state's progress toward closing the achievement gap, including student achievement for minority subgroups, and a comprehensive summary of state agency and local district activities and practices taken in the past year to close the achievement gap.

Sec. 92. NEW SECTION. 279.60 NONPROFIT SCHOOL ORGANIZATIONS.  
The board of directors of a school district may take action to adopt a resolution to establish, and authorize expenditures for the operational support of, an entity or organization for the sole benefit of the school district and its students that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. The entity or organization shall reimburse the school district for expenditures made by the school district on behalf of the entity or organization. Prior to establishing such an entity or organization, the board of directors

<sup>36</sup> Section 83

shall hold a public hearing on the proposal to establish such an entity or organization. Such an entity or organization shall maintain its records in accordance with chapter 22, except that the entity or organization shall provide for the anonymity of a donor at the written request of the donor. The board of directors of a school district shall annually report to the department of education and to the local community the administrative expenditures, revenues, and activities of the entity or organization established by the school district pursuant to this section. The department shall include in its annual condition of education report a statewide summary of the expenditures and revenues submitted in accordance with this section.

Sec. 93. Section 282.18, subsection 2, Code 2005, is amended to read as follows:

2. By ~~January~~ March 1 of the preceding school year for students entering grades one through twelve, or by September 1 of the current school year for students entering kindergarten, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of ~~January 1 of the previous year specified in this subsection~~, and one of the criteria defined in procedures of subsection 4 exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met apply.

The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. The board of directors of a receiving district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, but not later than ~~March~~ June 1 of the preceding school year. The parent or guardian may withdraw the request at any time prior to the start of the school year. A denial of a request by the board of a receiving district is not subject to appeal.

Sec. 94. Section 282.18, subsection 4, paragraphs a and b, Code 2005, are amended to read as follows:

a. After ~~January~~ March 1 of the preceding school year and until the third Friday in September of that calendar year, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause, as defined in paragraph "b", exists for failure to meet the ~~January~~ March 1 deadline. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

*\*b. For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of "good cause"; or a change in the status of a child's resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of "good cause". If the good cause*

\* Item veto; see message at end of the Act

*relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.\**

Sec. 95. Section 282.18, subsections 5 and 6, Code 2005, are amended to read as follows:

5. Open enrollment applications filed after ~~January~~ March 1 of the preceding school year that do not qualify for good cause as provided in subsection 4 shall be subject to the approval of the board of the resident district and the board of the receiving district. The parent or guardian shall send notification to the district of residence and the receiving district that the parent or guardian seeks to enroll the parent's or guardian's child in the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal under section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by ~~January~~ March 1 of the previous school year for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is not subject to appeal. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

Sec. 96. Section 423E.4, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A school district with a certified enrollment of fewer than two hundred fifty pupils in the entire district or certified enrollment of fewer than one hundred pupils in high school shall not expend the supplemental school infrastructure amount received for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. However, a certificate of need is not required for the payment of outstanding bonds issued for new construction pursuant to section 296.1, before April 1, 2003. A certificate of need is also not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101 – 12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

Sec. 97. **RETROACTIVE APPLICABILITY FOR NONPROFIT SCHOOL ORGANIZATIONS.** The provisions of section 279.60, as enacted by this division of this Act, authorizing the board of directors of a school district to establish and authorize expenditures for the operational support of an entity or organization for the sole benefit of the school district and its students, apply to entities or organizations established by the board of directors of a school district before, on, or after July 1, 2005.

\* Item veto; see message at end of the Act

DIVISION VII  
LAND RECORD INFORMATION SYSTEM

Sec. 98. NEW SECTION. 12B.6 CERTAIN PUBLIC FUNDS OF POLITICAL SUBDIVISIONS.

All funds received, expended, or held by an association of elected county officers before, on, or after the effective date of this Act, to implement a state-authorized program, are subject to audit by the auditor of state at the request of the government oversight committees or the legislative council. All such funds received or held on and after July 1, 2005, shall be deposited in a fund in the office of the treasurer of state.

Sec. 99. Section 331.605C, subsection 4, Code 2005, is amended to read as follows:

4. The local government electronic transaction fund is established in the office of the treasurer of state under the control of the treasurer of state. Moneys deposited into the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the local government electronic transaction fund shall be credited to the fund. Moneys in the local government electronic transaction fund are not subject to transfer, appropriation, or reversion to any other fund, or any other use except as provided in this subsection. On a monthly basis, the county treasurer shall pay each fee collected pursuant to subsection 2 to the treasurer of state for deposit into the local government electronic transaction fund. Moneys credited to the local government electronic transaction fund are appropriated to the treasurer of state to be used for the purpose of paying the ongoing costs of integrating and maintaining the state-wide internet website developed and implemented under subsection 1.

Sec. 100. COUNTY REAL ESTATE ELECTRONIC GOVERNMENT ADVISORY COMMITTEE.

1. A county real estate electronic government advisory committee is created. Staffing services for the advisory committee shall be provided by the auditor of state. The advisory committee membership shall consist of the following:

- a. Two members selected by the Iowa state association of county auditors.
- b. Two members selected by the Iowa state county treasurers association.
- c. Two members selected by the Iowa county recorders association.
- d. Two members selected by the Iowa state association of assessors.
- e. One member selected by each of the following organizations:
  - (1) Iowa state association of counties.
  - (2) Iowa land title association.
  - (3) Iowa bankers association.
  - (4) Iowa credit union league.
  - (5) Iowa state bar association.
  - (6) Iowa association of realtors.

2. The county real estate electronic government advisory committee shall facilitate discussion to integrate the county land record information system created pursuant to section 331.605C with the electronic government internet applications of county treasurers, county recorders, county auditors, and county assessors. The advisory committee shall file an integration plan with the governor and the general assembly on or before November 1, 2005.

Sec. 101. COUNTY LAND RECORD INFORMATION SYSTEM — ADDITIONAL PROVISIONS.

1. The board of supervisors of each county, on behalf of each county recorder, shall execute a chapter 28E agreement with the Iowa county recorders association for the implementation of the county land record information system. Such agreement shall require the Iowa county recorders association to execute contracts necessary for implementation of the county land record information system. The Iowa county recorders association shall submit to the general assembly on or before November 1, 2005, a long-range business plan for implementing and

maintaining the county land record information system, including a plan for integrating the system with electronic government and internet applications of other governmental entities.

2. The auditor of state shall conduct an audit of the fees collected pursuant to section 331.605C for the purpose of determining the amount of fees collected and the uses for which such fees have been and are being expended. Audit results shall be filed with the general assembly on or before November 1, 2005. The cost of the audit, not to exceed five thousand dollars, shall be paid from the local government electronic transaction fund in the office of the treasurer of state.

3. County recorders shall collect only statutorily authorized fees for land records management. County recorders shall not collect fees for viewing, accessing, or printing documents in the county land record information system until authorized by the general assembly. However, county recorders may collect actual third-party fees associated with accepting and processing statutorily authorized fees including credit card fees, treasury management fees, and other transaction fees required to enable electronic payment. For the purposes of this subsection, the term "third-party" does not include the county land record information system, the Iowa state association of counties, or any of the association's affiliates.

4. The Iowa state association of counties shall provide information to the government oversight committees on or before July 1, 2005, defining all types of land management records, identifying each county or state office that holds such records, and specifying the fees associated with each of the different types of records.

5. The fees collected, including those previously collected and deposited locally, pursuant to section 331.605C, shall be transferred to the treasurer of state for deposit into the local government electronic transaction fund.

#### Sec. 102. DATA SECURITY AUDIT.

1. The Iowa county recorders association shall select a vendor to conduct a data security audit of the county land record information system created pursuant to section 331.605C. The review and assessment utilized in the audit shall include, but are not limited to, a review of the functional and system requirements, design documentation, software code developed to support the business requirements, operational procedures, financial flows including a financial forecast, requests for proposals, and all contracts.

2. The costs of the data security audit conducted pursuant to subsection 1 shall be paid from moneys appropriated to the treasurer of state pursuant to section 331.605C.

3. The Iowa county recorders association shall forward the complete results of the data security audit to the government oversight committees of the senate and the house of representatives and the general assembly on or before December 1, 2005, and the government oversight committees may request additional updates.

Sec. 103. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

### DIVISION VIII CORRECTIVE PROVISIONS

Sec. 104. Section 8A.502, subsection 5, paragraph c, Code 2005, is amended to read as follows:

c. The Iowa dairy industry commission as established in chapter 179, the Iowa beef cattle producers association as established in chapter 181, the Iowa pork producers council as established in chapter 183A, the Iowa egg council as established in chapter 184, the Iowa turkey marketing council as established in chapter 184A, the Iowa soybean ~~promotion board association as established provided~~ in chapter 185, and the Iowa corn promotion board as established in chapter 185C.

Sec. 105. Section 8A.502, subsection 10, Code 2005, is amended to read as follows:

10. Entities representing agricultural producers. To control the financial operations of the

Iowa dairy industry commission as provided in chapter 179, the Iowa beef cattle producers association as provided in chapter 181, the Iowa pork producers council as provided in chapter 183A, the Iowa egg council as provided in chapter 184, the Iowa turkey marketing council as provided in chapter 184A, the Iowa soybean promotion board ~~association~~ as provided in chapter 185, and the Iowa corn promotion board as provided in chapter 185C.

*\*Sec. 106. Section 10A.104, subsections 12 and 13, Code 2005, are amended by striking the subsections.\**

Sec. 107. Section 12D.9, subsection 2, Code 2005, is amended to read as follows:

2. State income tax treatment of the Iowa educational savings plan trust shall be as provided in section 422.7, subsections 32, ~~and 33, and 34, and section 422.35, subsection 14.~~

Sec. 108. Section 15.104, subsection 4, unnumbered paragraph 1, Code 2005, as amended by 2005 Iowa Acts, Senate File 205,<sup>37</sup> section 5, is amended to read as follows:

Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C ~~as that chapter exists on or before June 30, 2005,~~ and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, 2005. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June 1, 2005. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

Sec. 109. Section 28.3, subsection 6, paragraph b, Code 2005, as amended by 2005 Iowa Acts, House File 761,<sup>38</sup> section 5, if enacted, is amended to read as follows:

b. In addition, a community empowerment office is established as a division of the department of management to provide a center for facilitation, communication, and coordination for community empowerment activities and funding and for improvement of the early care, education, health, and human services systems. Staffing for the community empowerment office shall be provided by a facilitator or coordinator appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor. A deputy and support staff may be designated, subject to appropriation made for this purpose. The facilitator or coordinator shall submit reports to the governor, the Iowa board, and the general assembly. The ~~facilitator or coordinator~~ shall provide primary staffing to the board, coordinate state technical assistance activities and implementation of the technical assistance system, and other communication and coordination functions to move authority and decision-making responsibility from the state to communities and individuals.

Sec. 110. Section 28.4, subsection 14, if enacted by 2005 Iowa Acts, House File 761,<sup>39</sup> section 9, is amended to read as follows:

14. With the assistance of the state departments represented on the Iowa empowerment board and the community empowerment office, develop and implement requirements for community empowerment areas and the state administrators of programs providing early

\* Item veto; see message at end of the Act

<sup>37</sup> Chapter 16 herein

<sup>38</sup> Chapter 148 herein

<sup>39</sup> Chapter 148 herein

care or early care services to annually report to the public and the early care ~~coordinator staff designated pursuant to section 28.3~~ regarding the results produced by the community empowerment initiative and by the programs. Source data shall also be made available to the early care coordinator.<sup>40</sup>

Sec. 111. Section 97.51, subsections 4 and 6, Code 2005, are amended to read as follows:

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had contributed to the Iowa old-age and survivors' insurance fund prior to the repeal of ~~said~~ chapter 97, Code 1950, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The department shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the department shall follow the same procedure as provided by ~~said~~ chapter 97, Code 1950, as amended, as though said chapter had not been repealed, except the requirements of ~~section 97.21~~, subsection 4, paragraph "a", and ~~subsection 5 of section 97.21~~, ~~subsection 5~~ Code 1950, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of ~~said~~ chapter 97, Code 1950, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

Sec. 112. Section 97B.1A, subsection 8, paragraph b, subparagraph (5), Code 2005, is amended to read as follows:

(5) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa pork producers council established under chapter 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean ~~promotion board established under association as provided in~~ chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 184.

Sec. 113. Section 99D.13, subsection 2, Code 2005, is amended to read as follows:

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be paid over to the commission to pay all or part of the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness ~~racetrack meets~~ race meetings, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed winnings from licensed dog tracks, the commission shall remit annually five

<sup>40</sup> The phrase "coordinator staff." probably intended

thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.

Sec. 114. Section 99D.13, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

One hundred twenty thousand dollars of winnings from wagers placed at harness racing ~~meets~~ race meetings forfeited under subsection 1 in a calendar year that escheat to the state and are paid over to the commission are appropriated to the racing commission for the fiscal year beginning in that calendar year to be used as follows:

Sec. 115. Section 126.23A, subsection 1, paragraph a, subparagraph (1), as enacted by 2005 Iowa Acts, Senate File 169,<sup>41</sup> section 3, is amended to read as follows:

(1) Sell a product ~~that contains more than three hundred sixty milligrams of pseudoephedrine~~ in violation of section 124.212, subsection 4.

Sec. 116. Section 126.23A, subsection 1, paragraph b, subparagraph (3), as enacted by 2005 Iowa Acts, Senate File 169,<sup>42</sup> section 3, is amended to read as follows:

(3) Require the purchaser to legibly sign a logbook and to also require the purchaser to legibly print the purchaser's name and address in the logbook.

Sec. 117. Section 126.23A, subsection 3, as enacted by 2005 Iowa Acts, Senate File 169,<sup>43</sup> section 3, is amended to read as follows:

3. A purchaser shall legibly sign the logbook and also legibly print the purchaser's name and address in the logbook.

Sec. 118. Section 135.43, subsection 3, paragraph g, as enacted in 2005 Iowa Acts, House File 190,<sup>44</sup> section 2, is amended to read as follows:

g. In order to assist ~~another~~ a division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

Sec. 119. Section 135M.6, as enacted by 2005 Iowa Acts, House File 724,<sup>45</sup> section 6, is amended to read as follows:

135M.6 SAMPLE PRESCRIPTION DRUGS.

This chapter shall not be construed to restrict the use of samples by a physician or other person legally authorized to prescribe drugs ~~pursuant to section 147.107~~ under state and federal law during the course of the physician's or other person's duties at a medical facility or pharmacy.

Sec. 120. Section 147.105, subsection 2, as enacted by 2005 Iowa Acts, House File 418,<sup>46</sup> section 1, is amended to read as follows:

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician provid-

<sup>41</sup> Chapter 15 herein

<sup>42</sup> Chapter 15 herein

<sup>43</sup> Chapter 15 herein

<sup>44</sup> Chapter 6 herein

<sup>45</sup> Chapter 97 herein

<sup>46</sup> Chapter 10 herein

ing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by a the clinical laboratory or the physician or under the direct supervision of a the clinical laboratory or the physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. § 263a.

Sec. 121. Section 231C.2, subsection 9, as amended by 2005 Iowa Acts, House File 585,<sup>47</sup> section 3, is amended to read as follows:

9. "Personal care" means assistance with the essential activities of daily living, which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping, that are essential to the health and welfare of the tenant.

Sec. 122. Section 249.1, subsection 4, Code 2005, is amended to read as follows:

4. "Previous categorical assistance programs" means the aid to the blind program authorized by chapter 241, the aid to the disabled program authorized by chapter 241A and the old-age assistance program authorized by chapter 249 of the Code of 1973.

Sec. 123. Section 249.10, Code 2005, is amended to read as follows:

249.10 PRIOR LIENS, CLAIMS AND ASSIGNMENTS.

Any lien or claim against the estate of a decedent existing on January 1, 1974, which lien was perfected or which claim was filed under the provisions of section 249.19, 249.20, or 249.21 as they appeared in the Code of 1973, and prior Codes, and which liens or claims have not been satisfied, are void. Any assignment of personal property which was made under the provisions of chapter 249 as it appeared in the Code of 1973, and prior Codes, is void. The director may in furtherance of this section release any lien or claim created or existing under that chapter. Each release made pursuant to this section shall be executed and acknowledged by the director or the director's authorized designee, and when recorded shall be conclusive in favor of any third person dealing with or concerning the property affected by the release in reliance upon such record.

Sec. 124. Section 257.28, Code 2005, is amended to read as follows:

257.28 ENRICHMENT LEVY.

If a school district has approved the use of the instructional support program for a budget year, the district shall not also collect moneys under the additional enrichment amount approved by the voters under chapter 442, as it appeared in Code 1991, for the budget year.

Sec. 125. Section 307.12, subsection 5, Code 2005, is amended to read as follows:

5. Prepare a budget for the department, subject to the approval of the commission, and prepare reports required by law.

Sec. 126. Section 321.43, Code 2005, is amended to read as follows:

321.43 NEW IDENTIFYING NUMBERS.

The department may assign a distinguishing number to a vehicle when the serial vehicle identification number on the vehicle is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the vehicle in a position to be determined by the director. The vehicle shall be registered and titled under the distinguishing number in lieu of the former serial vehicle identification number.

Sec. 127. Section 321.65, Code 2005, is amended to read as follows:

321.65 GARAGE RECORD.

Every person or corporation operating a public garage shall keep for public inspection a record of the registration number and engine or factory serial number or manufacturer's vehicle identification number of every motor vehicle offered for sale or taken in for repairs in said garage.

<sup>47</sup> Chapter 60 herein

Sec. 128. Section 321.90, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The application shall set out the name and address of the applicant, and the year, make, model, and serial vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and shall contain a concise statement of the facts surrounding the abandonment, or a statement that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. An order for disposal obtained pursuant to section 555B.8, subsection 3, satisfies the application requirements of this paragraph.

Sec. 129. Section 327B.1, subsection 6, as enacted by 2005 Iowa Acts, House File 591,<sup>48</sup> section 10, is amended to read as follows:

6. A motor carrier ~~owner or driver~~ shall ~~carry~~ keep proper evidence of interstate authority in the motor ~~carrier vehicle being operated by the motor carrier~~ and the motor carrier owner or driver shall make such evidence available to a peace officer upon request.

Sec. 130. Section 331.606, subsection 3, Code 2005, is amended to read as follows:

3. The county recorder may give the county sheriff the records filed under this chapter or chapter 695 of ~~prior Codes, Code 1977~~, pertaining to the sale and registration of weapons or may dispose of those records if the sheriff does not wish to receive the records.

Sec. 131. Section 453A.47A, subsection 4, and subsection 9, unnumbered paragraph 1, as enacted by 2005 Iowa Acts, House File 339,<sup>49</sup> section 4, are amended to read as follows:

4. RETAILER — CIGARETTES AND TOBACCO PRODUCTS. A retailer, as defined in section 453A.1, who holds a permit under division I of this chapter is not required to also obtain a ~~retailer retail~~ permit under this division. However, if a retailer, as defined in section 453A.1, only holds a permit under division I of this chapter and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during the time which the permit is suspended, revoked, or expired.

~~Retailer~~ Retail permits shall be issued only upon applications, accompanied by the fee indicated above, made upon forms furnished by the department upon written request. The failure to furnish such forms shall be no excuse for the failure to file the form unless absolute refusal is shown. The forms shall specify:

Sec. 132. Section 483A.8, subsection 5, Code 2005, is amended to read as follows:

5. A nonresident owning land in this state may apply for ~~one of the first six thousand~~ a nonresident ~~antlered or any sex~~ deer licenses ~~not limited to antlerless deer~~ hunting license, and the provisions of subsection 3 shall apply. However, if a nonresident owning land in this state is unsuccessful in obtaining one of the ~~first six thousand~~ nonresident ~~antlered or any sex~~ deer hunting licenses, the landowner shall be given preference for one of the ~~two thousand five hundred~~ antlerless deer only nonresident deer hunting licenses available pursuant to subsection 3. A nonresident owning land in this state shall pay the fee for a nonresident antlerless only deer license and the license shall be valid to hunt on the nonresident's land only. ~~A nonresident owning land in this state is eligible for only one nonresident deer license annually.~~ If one or more parcels of land have multiple nonresident owners, only one of the nonresident owners is eligible for a nonresident antlerless only deer license. If a nonresident jointly owns land in this state with a resident, the nonresident shall not be given preference for a nonresident antlerless only deer license. The department may require proof of land ownership from a nonresident landowner applying for a nonresident antlerless only deer license.

Sec. 133. Section 501A.231, subsection 5, if enacted by 2005 Iowa Acts, House File 859,<sup>50</sup> section 17, is amended to read as follows:

5. The secretary of state may provide for the change of registered office or registered agent

<sup>48</sup> Chapter 20 herein

<sup>49</sup> Chapter 93 herein

<sup>50</sup> Chapter 135 herein

on the form prescribed by the secretary of state for the biennial report, provided that the form contains the information required by section 501A.402. If the secretary of state determines that a biennial report does not contain the information required by this section but otherwise meets the requirements of section ~~501.402~~ 501A.402 for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent, effective as provided in section 501A.203, before returning the biennial report to the cooperative as provided in this section. A statement of change of registered office or agent pursuant to this subsection shall be executed by a person authorized to execute the biennial report.

Sec. 134. Section 501A.1001, subsection 4, if enacted by 2005 Iowa Acts, House File 859,<sup>51</sup> section 73, is amended to read as follows:

4. The determinations of the board as to the amount or fair value or the fairness to the cooperative of the contribution accepted or to be accepted by the cooperative or the terms of payment or performance, including under a contribution rights agreement in section 501A.1003, and a contribution rights agreement in section 501A.1004, are presumed to be proper if they are made in good faith and on the basis of accounting methods, or a fair valuation or other method, reasonable in the circumstances. Directors who are present and entitled to vote, and who, intentionally or without reasonable investigation, fail to vote against approving a consideration that is unfair to the cooperative, or overvalue property or services received or to be received by the cooperative as a contribution, are jointly and severally liable to the cooperative for the benefit of the then members who did not consent to and are damaged by the action to the extent of the damages of those members. A director against whom a claim is asserted under this subsection, except in case of knowing participation in a deliberate fraud, is entitled to contribution on an equitable basis from other directors who are liable under this subsection.

Sec. 135. Section 10B.4, subsection 1, Code 2005, as amended by 2005 Iowa Acts, House File 859,<sup>52</sup> section 102, if enacted, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 490, ~~490A~~, 496C, 497, 498, ~~490A~~, 499, 501, 501A, or 504A shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 136. 2005 Iowa Acts, House File 859,<sup>53</sup> section 104, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 104. Section 15.385, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. An eligible business may claim a tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be equal to the amount provided in

<sup>51</sup> Chapter 135 herein

<sup>52</sup> Chapter 135 herein

<sup>53</sup> Chapter 135 herein

paragraph “d”. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

Subject to prior approval by the department of economic development, in consultation with the department of revenue, an eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this subsection, such an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be applied against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 137. Section 602.1304, subsection 2, paragraph b, Code 2005, as amended by 2005 Iowa Acts, House File 826,<sup>54</sup> section 3, is amended to read as follows:

b. For each fiscal year, a judicial collection estimate for that fiscal year shall be equally and proportionally divided into a quarterly amount. The judicial collection estimate shall be calculated by using the state revenue estimating conference estimate made by December 15 pursuant to section 8.22A, subsection 3, of the total amount of fines, fees, civil penalties, costs, surcharges, and other revenues collected by judicial officers and court employees for deposit into the general fund of the state. The revenue estimating conference estimate shall be reduced by the maximum amounts allocated to the Iowa prison infrastructure fund pursuant to section 602.8108A, the court technology and modernization fund pursuant to section 602.8108, subsection 7, the judicial branch pursuant to section 602.8108, subsection 7A, and the road use tax fund pursuant to section 602.8108, subsection 8, and amounts allocated to the department of public safety’s vehicle depreciation account pursuant to section 602.8108, subsection 9, and the remainder shall be the judicial collection estimate. In each quarter of a fiscal year, after revenues collected by judicial officers and court employees equal to that quarterly amount are deposited into the general fund of the state, after the required amount is deposited during the quarter into the Iowa prison infrastructure fund pursuant to section 602.8108A and into the court technology and modernization fund pursuant to section 602.8108, subsection 7, and after the required amount is allocated to the judicial branch pursuant to section 602.8108, subsection 7A, and to the department of public safety’s vehicle depreciation account pursuant to section 602.8108, subsection 9, the director of the department of administrative services shall deposit the remaining revenues for that quarter into the enhanced court collections fund in lieu of the general fund. However, after total deposits into the collections fund for the fiscal year are equal to the maximum deposit amount established for the collections fund, remaining revenues for that fiscal year shall be deposited into the general fund. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of the department of administrative services shall recalculate the judicial collection estimate accordingly but only to the extent that the greater amount is due to an increase in the fines, fees, civil penalties, costs, surcharges, or other revenues allowed by law to be collected by judicial officers and court employees.

Sec. 138. Section 602.8108, subsection 2, Code 2005, as amended by 2005 Iowa Acts, House File 826,<sup>55</sup> section 5, is amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the

<sup>54</sup> Chapter 165 herein

<sup>55</sup> Chapter 165 herein

state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsections 3, 4, 5, 7, 7A, and 8, and 9, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative services agency within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

Sec. 139. Section 633.10, subsection 5, Code 2005, is amended to read as follows:

5. ACTIONS FOR ACCOUNTING.

An action for an accounting against a beneficiary of a transfer on death security registration, pursuant to ~~this chapter 633D~~.

Sec. 140. Section 805.8C, subsection 6, as amended by 2005 Iowa Acts, Senate File 169,<sup>56</sup> section 9, is amended to read as follows:

6. PSEUDOEPHEDRINE SALES VIOLATIONS. For violations of section 126.23A, subsection 1, by an employee of a retailer, or for violations of section 126.23A, subsection 2, paragraph "a", by a purchaser, the scheduled fine is as follows:

- a. If the violation is a first offense, the scheduled fine is one hundred dollars.
- b. If the violation is a second offense, the scheduled fine is two hundred fifty dollars.
- c. If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

Sec. 141. 2005 Iowa Acts, House File 739,<sup>57</sup> section 7, if enacted, is amended to read as follows:

SEC. 7. CONTINGENT EFFECTIVENESS. The sections of this Act ~~creating amending Code chapter 280A or enacting new sections in~~ Code chapter 280A take effect only if the general assembly appropriates funds for the fiscal year beginning July 1, 2005, in an amount sufficient to implement the provisions of Code chapter 280A, if enacted.

Sec. 142. 2005 Iowa Acts, House File 839,<sup>58</sup> is amended by adding the following new section:

SEC.   . EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment of 2005 Iowa Acts, House File 882.<sup>59</sup>

*\*Sec. 143. CONTINGENT EFFECTIVE DATE. The section of this division of this Act amending section 10A.104 is contingent upon the enactment of 2005 Iowa Acts, House File 770.\**

#### DIVISION IX STATE LIQUOR ACTIVITIES

Sec. 144. Section 123.53, subsection 3, Code 2005, is amended to read as follows:

3. The treasurer of state shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the division from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually, ~~and any amounts so. Of the amounts transferred, two million dollars, plus an additional amount determined by the general assembly, shall be used by appropriated to~~ the substance abuse division of the Iowa department of public health ~~to be used for substance abuse treatment and prevention programs in an amount determined by the general assembly and any. Any~~ amounts received in excess of the amounts appropriated to the substance abuse division of the Iowa department of public health shall be considered part of the general fund balance.

<sup>56</sup> Chapter 15 herein

<sup>57</sup> Chapter 144 herein

<sup>58</sup> Chapter 90 herein

<sup>59</sup> This chapter

\* Item veto; see message at end of the Act

Sec. 145. ALCOHOLIC BEVERAGES DIVISION — STATE LIQUOR WAREHOUSE AND TRUCKING FUNCTIONS. The department of administrative services shall issue a request for proposals developed with the alcoholic beverages division of the department of commerce or otherwise utilize a competitive process not inconsistent with the division's current charter agency agreement to select a provider to perform the state liquor warehouse and trucking functions. The request for proposals or competitive process shall be issued or commenced as soon as is reasonably possible and a provider shall be selected no later than December 31, 2005. The division may submit a bid in response to a request for proposals issued or competitive process conducted pursuant to this section. If the division submits a bid, the division shall include in the bid the cost of labor to perform the contract which shall be calculated by using the cost of hiring full-time equivalent positions to perform the contract pursuant to state pay grade classifications and benefits as outlined in the most recent collective bargaining agreement applicable to other employees of the division. Notwithstanding any provision of chapter 22 to the contrary, the division's bid and any documents the division uses in developing its bid shall be considered a confidential record until the department of administrative services announces the results of the request for proposals or competitive process.

Sec. 146. EFFECTIVE DATE. The section of this division of this Act amending section 123.53 takes effect July 1, 2006.

DIVISION X  
BOARD OF REGENTS

Sec. 147. Section 12B.10C, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 10. The state board of regents governed by chapter 262.

Sec. 148. Section 73A.1, subsection 2, Code 2005, is amended to read as follows:

2. "Municipality" as used in this chapter means township, school corporation, and state fair board, ~~and state board of regents.~~

Sec. 149. Section 262.9, subsection 7, Code 2005, is amended to read as follows:

7. ~~With the approval of the executive council, acquire~~ Acquire real estate for the proper uses of ~~said~~ institutions under its control, and dispose of real estate belonging to ~~said the~~ institutions when not necessary for their purposes. ~~A~~ The disposal of such real estate shall be made upon such terms, conditions, and consideration as the board may recommend ~~and subject to the approval of the executive council.~~ If real estate subject to sale ~~hereunder~~ has been purchased or acquired from appropriated funds, the proceeds of such sale shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the state board of regents, ~~which, with the prior approval of the executive council,~~ may be used to purchase other real estate and buildings, and for the construction and alteration of buildings and other capital improvements. All transfers shall be by state patent in the manner provided by law. The board is also authorized to grant easements for rights-of-way over, across, and under the surface of public lands under its jurisdiction when in the board's judgment such easements are desirable and will benefit the state of Iowa.

Sec. 150. Section 262.9, subsection 15, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 151. Section 262.10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

No sale or purchase of real estate shall be made save upon the order of the board, made at a regular meeting, or one called for that purpose, and then in such manner and under such terms as the board may prescribe ~~and only with the approval of the executive council.~~ No

member of the board or any of its committees, offices or agencies nor any officer of any institution, shall be directly or indirectly interested in such purchase or sale.

Sec. 152. Section 262.33A, Code 2005, is amended to read as follows:

262.33A FIRE AND ENVIRONMENTAL SAFETY — REPORT — EXPENDITURES.

It is the intent of the general assembly that each institution of higher education under the control of the state board of regents shall, in consultation with the state fire marshal, identify and correct all critical fire and environmental safety deficiencies. ~~The state fire marshal shall report annually to the joint subcommittee on education appropriations. The report shall include, but is not limited to, the identified deficiencies in fire and environmental safety at the institutions, and plans for correction of the deficiencies and for compliance with this section.~~ Commencing July 1, 1993, each institution under the control of the state board of regents shall expend annually for fire safety and deferred maintenance at least the amount budgeted for these purposes for the fiscal year beginning July 1, 1992, in addition to any moneys appropriated from the general fund for these purposes in succeeding years.

Sec. 153. Section 262.34, Code 2005, is amended to read as follows:

262.34 IMPROVEMENTS — ADVERTISEMENT FOR BIDS — DISCLOSURES — PAYMENTS.

1. When the estimated cost of construction, repairs, or improvement of buildings or grounds under charge of the state board of regents exceeds twenty-five one hundred thousand dollars, the board shall advertise for bids for the contemplated improvement or construction and shall let the work to the lowest responsible bidder. However, if in the judgment of the board bids received are not acceptable, the board may reject all bids and proceed with the construction, repair, or improvement by a method as the board may determine. All plans and specifications for repairs or construction, together with bids on the plans or specifications, shall be filed by the board and be open for public inspection. All bids submitted under this section shall be accompanied by a deposit of money, a certified check, or a credit union certified share draft in an amount as the board may prescribe.

2. A bidder awarded a contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

3. Payments made by the board for the construction of public improvements shall be made in accordance with the provisions of chapter 573 except that:

a. Payments may be made without retention until ninety-five percent of the contract amount has been paid. The remaining five percent of the contract amount shall be paid as provided in section 573.14, except that:

(1) At any time after all or any part of the work is substantially completed in accordance with paragraph "c", the contractor may request the release of all or part of the retainage owed. Such request shall be accompanied by a waiver of claim rights under the provisions of chapter 573 from any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors performed labor, or furnished materials, service, or transportation in the construction of that portion of the work for which release of the retainage is requested.

(2) Upon receipt of the request, the board shall release all or part of the unpaid funds. Retainage that is approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retainage is released pursuant to a contractor's request, no retainage shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the board does not release the retainage due, interest shall accrue on the retainage amount due as provided in section 573.14 until that amount is paid.

(3) If at the time of the request for the retainage there are remaining or incomplete minor items, an amount equal to two hundred percent of the value of each remaining or incomplete

item, as determined by the board's authorized contract representative, may be withheld until such item or items are completed.

(4) An itemization of the remaining or incomplete items, or the reason that the request for release of the retainage was denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retainage.

b. For purposes of this section, "authorized contract representative" means the architect or engineer who is in charge of the project and chosen by the board to represent its interests, or if there is no architect or engineer, then such other contract representative or officer as designated in the contract documents as the party representing the board's interest regarding administration and oversight of the project.

c. For purposes of this section, "substantially completed" means the first date on which any of the following occurs:

(1) Completion of the project or when the work has been substantially completed in general accordance with the terms and provisions of the contract.

(2) The work or the portion designated is sufficiently complete in accordance with the requirements of the contract so the board can occupy or utilize the work for its intended purpose.

(3) The project is certified as having been substantially completed by either of the following:

(a) The architect or engineer authorized to make such certification.

(b) The contracting authority representing the board.

4. Each contractor or subcontractor shall withhold retainage, if at all, in the same manner as retainage is withheld from the contractor or subcontractor; and each subcontractor shall pass through all retainage payments to lower tier subcontractors in accordance with the provisions of chapter 573.

Sec. 154. Section 262.57, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes heretofore issued or as may be hereafter issued for any project or for refunding purposes at a lower rate, the same rate or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Such bonds or notes may be sold by said board at public sale in the manner prescribed by chapter 75 but if the board shall find it to be advantageous and in the public interest to do so, such bonds or notes may be sold by the board at private sale without published notice of any kind and without regard to the requirements of chapter 75 in such manner and upon such terms as may be prescribed by the resolution authorizing the same, ~~but such bonds or notes shall in any event be sold upon terms of not less than par plus accrued interest.~~ Bonds or notes issued to refund other bonds or notes heretofore or hereafter issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or heretofore or hereafter issued for refunding purposes, may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded, and a finding by the board in the resolution authorizing the issuance of such refunding bonds or notes that the bonds or notes being refunded were issued for a purpose specified in this division and constitute binding obligations of the board shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this division. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be re-

funded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or to fund interest in arrears or about to become due.

Sec. 155. Section 262.78, subsection 6, Code 2005, is amended by striking the subsection.

Sec. 156. Section 262A.5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board is authorized to borrow money under this chapter, and the board may issue and sell negotiable bonds to pay all or any part of the cost of carrying out any project at any institution and may refund and refinance bonds issued for any project or for refunding purposes at the same rate or at a higher or lower rate or rates of interest. Bonds issued under the provisions of this chapter shall be sold by said board at public sale on the basis of sealed proposals received pursuant to a notice specifying the time and place of sale and the amount of bonds to be sold which shall be published at least once not less than seven days prior to the date of sale in a newspaper published in the state of Iowa and having a general circulation in said state. The provisions of chapter 75 shall not apply to bonds issued under authority contained in this chapter, but such bonds shall be sold upon terms of not less than par plus accrued interest to the extent not in conflict with this chapter. Bonds issued to refund other bonds issued under the provisions of this chapter may either be sold in the manner hereinbefore specified and the proceeds thereof applied to the payment of the obligations being refunded, or the refunding bonds may be exchanged for and in payment and discharge of the obligations being refunded. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds, except that the principal amount of the refunding bonds may exceed the principal amount of the bonds to be refunded to the extent necessary to pay any premium due on the call of the bonds to be refunded or to fund interest in arrears or which is to become due.

Sec. 157. Section 266.39F, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The provisions of section 262.9, subsection 7, and section 262.10, shall not apply to the sale of any portion of land to be sold in accordance with this section or to the use of the proceeds from the sale of the land.

Sec. 158. Section 573.12, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Payments made under contracts for the construction of public improvements, unless provided otherwise by law, shall be made on the basis of monthly estimates of labor performed and material delivered, as determined by the project architect or engineer. The public corporation shall retain from each monthly payment not more than five percent of that amount which is determined to be due according to the estimate of the architect or engineer. ~~However, institutions governed pursuant to chapter 262 may, on contracts where a bond is required under section 573.2, make payments under this section without retention until ninety-five percent of the contract amount has been paid and the remaining five percent of the contract amount shall be paid as provided under section 573.14.~~

Sec. 159. Section 573.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Except as provided in section 573.12 for progress payments, failure to make payment pursuant to this section, of any amount due the contractor,

within forty days, unless a greater time period not to exceed fifty days is specified in the contract documents, after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this paragraph and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 12C.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. However, for institutions governed pursuant to chapter 262, the rate of interest shall be determined by the period of time during which interest accrues, and shall be calculated as the prime rate plus one percent per year as of the day interest begins to accrue. This paragraph does not abridge any of the rights set forth in section 573.16. Except as provided in sections 573.12 and 573.16, interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. This chapter does not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter. For purposes of this unnumbered paragraph, "prime rate" means the prime rate charged by banks on short-term business loans, as determined by the board of governors of the federal reserve system and published in the federal reserve bulletin.

Sec. 160. Sections 262.64A, 262.67, 262A.3, 262A.6A, 263A.11, 265.6, and 473.12, Code 2005, are repealed.

#### DIVISION XI ENTREPRENEURS WITH DISABILITIES

Sec. 161. ENTREPRENEURS WITH DISABILITIES PROGRAM — TRANSFER OF ADMINISTRATION. The department of economic development shall transfer the administrative duties of the entrepreneurs with disabilities program to the Iowa finance authority. The authority shall adopt rules pursuant to chapter 17A for purposes of administering the program. Any contract entered into under the program by the department of economic development remains valid. The transfer of administrative duties to the authority shall not constitute grounds for rescission or modification of a contract under the program entered into with the department.

Sec. 162. ENTREPRENEURS WITH DISABILITIES PROGRAM — APPROPRIATION. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, there is appropriated from the general fund of the state to the Iowa finance authority two hundred thousand dollars for purposes of the entrepreneurs with disabilities program.

#### DIVISION XII WIND ENERGY PRODUCTION TAX CREDIT

Sec. 163. Section 476B.1, subsection 4, paragraph c, Code 2005, is amended to read as follows:

c. Was originally placed in service on or after July 1, ~~2004~~ 2005, but before July 1, ~~2007~~ 2008.

Sec. 164. Section 476B.3, Code 2005, is amended to read as follows:  
476B.3 CREDIT AMOUNT.

1. ~~Except as limited by subsection 2, the~~ The wind energy production tax credit allowed under this chapter equals the product of one cent multiplied by the number of kilowatt-hours of qualified electricity sold by the owner during the taxable year.

~~2. a. The maximum amount of tax credit which a group of qualified facilities operating as one unit may receive for a taxable year equals the rate of credit times thirty-two percent of the total number of kilowatts of nameplate generating capacity.~~

~~b. However, if for the previous taxable year the amount of the tax credit for the group of qualified facilities operating as one unit is less than the maximum amount available as provided in paragraph "a", the maximum amount for the next taxable year shall be increased by the amount of the previous year's unused maximum credit.~~

Sec. 165. Section 476B.4, subsection 1, paragraph b, Code 2005, is amended by striking the paragraph.

Sec. 166. Section 476B.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

476B.5 DETERMINATION OF ELIGIBILITY.

1. An owner may apply to the board for a written determination regarding whether a facility is a qualified facility by submitting to the board a written application containing all of the following:

- a. Information regarding the ownership of the facility including the percentage of equity interest held by each owner.
- b. The nameplate generating capacity of the facility.
- c. Information regarding the facility's initial placement in service.
- d. Information regarding the type of facility.
- e. A copy of an executed power purchase agreement or other agreement to purchase electricity upon completion of the project.
- f. Any other information the board may require.

2. The board shall review the application and supporting information and shall make a preliminary determination regarding whether the facility is a qualified facility. The board shall notify the applicant of the approval or denial of the application within thirty days of receipt of the application and information required. If the board fails to notify the applicant of the approval or denial within thirty days, the application shall be deemed denied. An applicant who receives a determination denying an application may file an appeal with the board within thirty days from the date of the denial pursuant to the provisions of chapter 17A. In the absence of a timely appeal, the preliminary determination shall be final. If the application is incomplete, the board may grant an extension of time for the provision of additional information.

3. A facility that is not operational within eighteen months after issuance of an approval for the facility by the board shall cease to be a qualified facility. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

4. The maximum amount of nameplate generating capacity of all qualified facilities the board may find eligible under this chapter shall not exceed four hundred fifty megawatts of nameplate generating capacity.

5. An owner shall not be an owner of more than two qualified facilities.

Sec. 167. Section 476B.6, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

476B.6 TAX CREDIT CERTIFICATE PROCEDURE.

1. a. To be eligible to receive the wind energy production tax credit, the owner must first receive approval of the board of supervisors of the county in which the qualified facility is located. The application for approval may be submitted prior to commencement of the construction of the qualified facility but shall be submitted no later than the close of the owner's first taxable year for which the credit is to be applied for. The application must contain the owner's name and address, the address of the qualified facility, and the dates of the owner's first and last taxable years for which the credit will be applied for. Within forty-five days of the receipt of the application for approval, the board of supervisors shall either approve or disapprove the application. After the forty-five-day limit, the application is deemed to be approved.

b. Upon approval of the application, the owner may apply for the tax credit as provided in subsection 2. In addition, approval of the application is acceptance by the applicant for the assessment of the qualified facility for property tax purposes for a period of twelve years and approval by the board of supervisors for the payment of the property taxes levied on the qualified property to the state. For purposes of property taxation, the qualified facility shall be centrally assessed and shall be exempt from any replacement tax under section 437A.6 for the period during which the facility is subject to property taxation. The property taxes to be paid to the state are those property taxes which make up the consolidated tax levied on the qualified facility and which are due and payable in the twelve-year period beginning with the first fiscal year beginning on or after the end of the owner's first taxable year for which the credit is applied for. Upon approval of the application, the board of supervisors shall notify the county treasurer to state on the tax statement which lists the taxes on the qualified facility that the amount of the property taxes shall be paid to the department. Payment of the designated property taxes to the department shall be in the same manner as required for the payment of regular property taxes and failure to pay designated property taxes to the department shall be treated the same as failure to pay property taxes to the county treasurer.

c. Once the owner of the qualified facility receives approval under paragraph "a", subsequent approval under paragraph "a" is not required for the same qualified facility for subsequent taxable years.

2. An owner of a qualified facility may apply to the board for the wind energy production tax credit by submitting to the board all of the following:

- a. A completed application in a form prescribed by the board.
- b. A copy of the determination granting approval of the facility as a qualified facility by the board.
- c. A copy of a signed power purchase agreement or other agreement to purchase electricity.
- d. Sufficient documentation that the electricity has been generated by the qualified facility and sold to a purchaser.
- e. Any other information the board deems necessary.

3. The board shall notify the department of the amount of kilowatt-hours generated and purchased from a qualified facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

4. Each tax credit certificate shall contain the owner's name, address, and tax identification number, the amount of tax credits, the first taxable year the certificate may be used, the type of tax to which the tax credits shall be applied, and any other information required by the department. The tax credit certificate shall only list one type of tax to which the amount of the tax credit may be applied. Once issued by the department, the tax credit certificate shall not be terminated or rescinded.

5. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity all of the income of which is taxed directly to its equity holders or beneficiaries, for the taxes imposed under chapter 422, division II or III, the tax credit certificate shall be issued directly to equity holders or beneficiaries of the applicant in proportion to their pro rata share of the income of such entity. The applicant shall, in the application made under this section, identify its equity holders or beneficiaries, and the percentage of such entity's income that is allocable to each equity holder or beneficiary. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 432, the tax credit certificate shall be issued directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

6. The department shall not issue a tax credit certificate if the facility approved by the board as a qualified facility is not operational within eighteen months after the approval is issued.

7. Once a tax credit certificate is issued pursuant to this section, the tax credit may only be claimed against the type of tax reflected on the certificate.

8. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2006.

Sec. 168. Section 476B.7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Wind energy production tax credit certificates issued under this chapter may be transferred to any person or entity. Within thirty days of transfer, the transferee must submit the transferred tax credit certificate to the ~~board~~ department along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the ~~board~~ department shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under section 476B.6 and must have the same effective taxable year and the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the board shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 169. Section 476B.8, Code 2005, is amended to read as follows:

476B.8 USE OF TAX CREDIT CERTIFICATES.

To claim a wind energy production tax credit under this chapter, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2005 ~~2006~~. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return. Any tax credit in excess of the taxpayer's tax liability for the taxable year may be credited to the taxpayer's tax liability for the following seven taxable years or until depleted, whichever is the earlier.

Sec. 170. Section 476B.9, Code 2005, is amended to read as follows:

476B.9 REGISTRATION OF TAX CREDIT CERTIFICATES.

~~The board shall, in conjunction with the department, shall~~ develop a system for the registration of the wind energy production tax credit certificates issued or transferred under this chapter and a system that permits verification that any tax credit claimed on a tax return is valid and that transfers of the tax credit certificates are made in accordance with the requirements of this chapter. The tax credit certificates issued under this chapter shall not be classified as a security pursuant to chapter 502.

Sec. 171. NEW SECTION. 476B.10 RULES.

The department and the board may adopt rules pursuant to chapter 17A for the administration and enforcement of this chapter.

DIVISION XIII  
PROVISIONS RELATING TO THE PRACTICE OF PHARMACY

Sec. 172. Section 155A.3, subsection 11, Code 2005, is amended to read as follows:

11. "Dispense" means to deliver a prescription drug, device, or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

Sec. 173. Section 155A.3, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 22A. "Logistics provider" means an entity that provides or coordinates warehousing, distribution, or other services on behalf of a manufacturer or other owner of a drug, but does not take title to the drug or have general responsibility to direct its sale or other disposition.

Sec. 174. Section 155A.3, Code 2005, is amended by adding the following new subsection:  
NEW SUBSECTION. 23A. "Pedigree" means a recording of each distribution of any given drug or device, from the sale by the manufacturer through acquisition and sale by any wholesaler, pursuant to rules adopted by the board.

Sec. 175. Section 155A.3, subsection 33, paragraph b, Code 2005, is amended to read as follows:

b. A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either one of the following statements:

(1) Caution: Federal law prohibits dispensing without a prescription.

(2) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(3) Caution: Federal law restricts this device to sale by, or on the order of, a physician.

(4) Rx only.

Sec. 176. Section 155A.3, subsection 35, Code 2005, is amended to read as follows:

35. "Proprietary medicine" or "~~over-the-counter medicine~~" means a nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law.

Sec. 177. Section 155A.3, subsection 38, Code 2005, is amended to read as follows:

38. "Wholesaler" means a person operating or maintaining, either within or outside this state, a manufacturing plant, wholesale distribution center, wholesale business, or any other business in which prescription drugs or devices, medicinal chemicals, medicines, or poisons are sold, manufactured, compounded, dispensed, stocked, exposed, distributed from, or offered for sale at wholesale in this state. "Wholesaler" does not include those wholesalers who sell only proprietary or over-the-counter medicines. "~~Wholesaler~~" also does not include a commercial carrier that temporarily stores prescription drugs or devices, medicinal chemicals, medicines, or poisons while in transit.

Sec. 178. Section 155A.4, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. ~~A manufacturer or wholesaler~~ to distribute prescription drugs or devices as provided by state or federal law.

Sec. 179. Section 155A.13, subsection 6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

To qualify for a pharmacy license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board ~~that shall include the following information and~~. The application shall include the following and such other information as required by rules of the board and shall be given under oath:

Sec. 180. Section 155A.17, subsection 2, Code 2005, is amended to read as follows:

2. The board shall establish standards for drug wholesaler licensure and may define specific types of wholesaler licenses. The board may deny, suspend, or revoke a drug wholesale license for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States relating to prescription drugs, devices, or controlled substances, or for a violation of this chapter, chapter 124, 124A, 124B, 126, or 205, or a rule of the board.

Sec. 181. Section 155A.17, subsection 3, Code 2005, is amended to read as follows:

3. The board shall adopt rules pursuant to chapter 17A on matters pertaining to the issuance of a wholesale drug license. The rules shall provide for conditions of licensure, compliance standards, licensure fees, disciplinary action, and other relevant matters. Additionally, the rules shall establish provisions or exceptions for pharmacies, chain pharmacy distribution centers, logistics providers, and other types of wholesalers relating to pedigree requirements, drug or device returns, and other related matters, so as not to prevent or interfere with usual, customary, and necessary business activities.

Sec. 182. Section 155A.19, subsection 1, paragraph f, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

f. Change of legal name or doing-business-as name.

Sec. 183. Section 155A.19, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 3. A wholesaler shall report in writing to the board, pursuant to its rules, the following:

- a. Permanent closing or discontinuation of wholesale distributions into this state.
- b. Change of ownership.
- c. Change of location.
- d. Change of the wholesaler's responsible individual.
- e. Change of legal name or doing-business-as name.
- f. Theft or significant loss of any controlled substance on discovery of the theft or loss.
- g. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.
- h. Other information or activities as required by rule.

Sec. 184. Section 155A.20, subsection 1, Code 2005, is amended to read as follows:

1. A person, other than a pharmacy or wholesaler licensed under this chapter, shall not display in or on any store, internet site, or place of business, nor use in any advertising or promotional literature, communication, or representation, the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation in a manner that would mislead the public unless it is a pharmacy or drug wholesaler licensed under this chapter.

Sec. 185. Section 155A.21, Code 2005, is amended to read as follows:

155A.21 UNLAWFUL POSSESSION OF PRESCRIPTION DRUG OR DEVICE — PENALTY.

1. A person found in possession of a drug or device limited to dispensation by prescription, unless the drug or device was so lawfully dispensed, commits a serious misdemeanor.

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatric physician, therapeutically certified optometrist, advanced registered nurse practitioner, physician assistant, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor to a common carrier, manufacturer's representative, or messenger when transporting the drug or device in the same unbroken package in which the drug or device was delivered to that person for transportation.

Sec. 186. Section 155A.23, Code 2005, is amended to read as follows:

155A.23 PROHIBITED ACTS.

A person shall not perform or cause the performance of or aid and abet any of the following acts:

1. Obtain or attempt Obtaining or attempting to obtain a prescription drug or device or pro-

~~eure or attempt procuring or attempting to procure the administration of a prescription drug or device by:~~

- ~~a. Fraud Engaging in fraud, deceit, misrepresentation, or subterfuge.~~
- ~~b. Forgery or alteration of Forging or altering a written, electronic, or facsimile prescription or of any written, electronic, or facsimile order.~~
- ~~c. Concealment of Concealing a material fact.~~
- ~~d. Use of Using a false name or the giving of a false address.~~
- ~~2. Willfully make making a false statement in any prescription, report, or record required by this chapter.~~
- ~~3. For the purpose of obtaining a prescription drug or device, falsely assume assuming the title of or claim claiming to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatric physician, veterinarian, or other authorized person.~~
- ~~4. Make or utter Making or uttering any false or forged oral, written, electronic, or facsimile prescription or oral, written, electronic, or facsimile order.~~
- ~~5. Affix any false or forged label to a package or receptacle containing prescription drugs Forging, counterfeiting, simulating, or falsely representing any drug or device without the authority of the manufacturer, or using any mark, stamp, tag, label, or other identification device without the authorization of the manufacturer.~~
- ~~6. Manufacturing, repackaging, selling, delivering, or holding or offering for sale any drug or device that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or that has otherwise been rendered unfit for distribution.~~
- ~~7. Adulterating, misbranding, or counterfeiting any drug or device.~~
- ~~8. Receiving any drug or device that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and delivering or proffering delivery of such drug or device for pay or otherwise.~~
- ~~9. Adulterating, mutilating, destroying, obliterating, or removing the whole or any part of the labeling of a drug or device or committing any other act with respect to a drug or device that results in the drug or device being misbranded.~~
- ~~10. Purchasing or receiving a drug or device from a person who is not licensed to distribute the drug or device to that purchaser or recipient.~~
- ~~11. Selling or transferring a drug or device to a person who is not authorized under the law of the jurisdiction in which the person receives the drug or device to purchase or possess the drug or device from the person selling or transferring the drug or device.~~
- ~~12. Failing to maintain or provide records as required by this chapter, chapter 124, or rules of the board.~~
- ~~13. Providing the board or any of its representatives or any state or federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the scope of this chapter, chapter 124, or rules of the board.~~
- ~~14. Distributing at wholesale any drug or device that meets any of the following conditions:
  - ~~a. The drug or device was purchased by a public or private hospital or other health care entity.~~
  - ~~b. The drug or device was donated or supplied at a reduced price to a charitable organization.~~
  - ~~c. The drug or device was purchased from a person not licensed to distribute the drug or device.~~
  - ~~d. The drug or device was stolen or obtained by fraud or deceit.~~~~
- ~~15. Failing to obtain a license or operating without a valid license when a license is required pursuant to this chapter or chapter 147.~~
- ~~16. Engaging in misrepresentation or fraud in the distribution of a drug or device.~~
- ~~17. Distributing a drug or device to a patient without a prescription drug order or medication order from a practitioner licensed by law to use or prescribe the drug or device.~~
- ~~18. Distributing a drug or device that was previously dispensed by a pharmacy or distributed by a practitioner except as provided by rules of the board.~~
- ~~19. Failing to report any prohibited act.~~

Information communicated to a physician in an unlawful effort to procure a prescription drug or device or to procure the administration of a prescription drug shall not be deemed a privileged communication.

Subsections 6 and 7 shall not apply to the wholesale distribution by a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

Sec. 187. Section 155A.24, Code 2005, is amended to read as follows:

155A.24 PENALTIES.

1. A Except as otherwise provided in this section, a person who violates a provision of section 155A.23 or who sells or offers for sale, gives away, or administers to another person any prescription drug or device in violation of this chapter commits a public offense and shall be punished as follows:

a. If the prescription drug is a controlled substance, the person shall be punished pursuant to section 124.401, subsection 1, and section 124.411 chapter 124, division IV.

b. If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of a class "D" felony.

2. A person who violates any provision of this chapter by selling, giving away, or administering any prescription drug or device to a minor is guilty of a class "C" felony.

3. A wholesaler who, with intent to defraud or deceive, fails to deliver to another person, when required by rules of the board, complete and accurate pedigree concerning a drug prior to transferring the drug to another person is guilty of a class "C" felony.

4. A wholesaler who, with intent to defraud or deceive, fails to acquire, when required by rules of the board, complete and accurate pedigree concerning a drug prior to obtaining the drug from another person is guilty of a class "C" felony.

5. A wholesaler who knowingly destroys, alters, conceals, or fails to maintain, as required by rules of the board, complete and accurate pedigree concerning any drug in the person's possession is guilty of a class "C" felony.

6. A wholesaler who is in possession of pedigree documents required by rules of the board, and who knowingly fails to authenticate the matters contained in the documents as required, and who nevertheless distributes or attempts to further distribute drugs is guilty of a class "C" felony.

7. A wholesaler who, with intent to defraud or deceive, falsely swears or certifies that the person has authenticated any documents related to the wholesale distribution of drugs or devices is guilty of a class "C" felony.

8. A wholesaler who knowingly forges, counterfeits, or falsely creates any pedigree, who falsely represents any factual matter contained in any pedigree, or who knowingly omits to record material information required to be recorded in a pedigree is guilty of a class "C" felony.

9. A wholesaler who knowingly purchases or receives drugs or devices from a person not authorized to distribute drugs or devices in wholesale distribution is guilty of a class "C" felony.

10. A wholesaler who knowingly sells, barter, brokers, or transfers a drug or device to a person not authorized to purchase the drug or device under the jurisdiction in which the person receives the drug or device in a wholesale distribution is guilty of a class "C" felony.

11. A person who knowingly manufactures, sells, or delivers, or who possesses with intent to sell or deliver, a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the person manufactures or produces a counterfeit, misbranded, or adulterated drug

or device; or if the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one thousand units or dosages; or if the violation is a third or subsequent violation of this subsection, the person is guilty of a class "C" felony.

b. If the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one hundred units or dosages but does not exceed one thousand units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

c. All other violations of this subsection shall constitute an aggravated misdemeanor.

12. A person who knowingly forges, counterfeits, or falsely creates any label for a drug or device or who falsely represents any factual matter contained on any label of a drug or device is guilty of a class "C" felony.

13. A person who knowingly possesses, purchases, or brings into the state a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the quantity of a counterfeit, misbranded, or adulterated drug or device being possessed, purchased, or brought into the state exceeds one hundred units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

b. All other violations of this subsection shall constitute an aggravated misdemeanor.

14. This section does not prevent a licensed practitioner of medicine, dentistry, podiatry, nursing, veterinary medicine, optometry, or pharmacy from acts necessary in the ethical and legal performance of the practitioner's profession.

15. Subsections 1 and 2 shall not apply to a parent or legal guardian administering, in good faith, a prescription drug or device to a child of the parent or a child for whom the individual is designated a legal guardian.

Sec. 188. NEW SECTION. 155A.40 CRIMINAL HISTORY RECORD CHECKS.

1. The board may request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial or renewal license or registration issued pursuant to this chapter or chapter 147, any applicant for reinstatement of a license or registration issued pursuant to this chapter or chapter 147, or any licensee or registrant who is being monitored as a result of a board order or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's, licensee's, or registrant's eligibility for licensure, registration, or suitability for continued practice of the profession. Criminal history data may be requested for all owners, managers, and principal employees of a pharmacy or drug wholesaler licensed pursuant to this chapter. The board shall adopt rules pursuant to chapter 17A to implement this section. The board shall inform the applicant, licensee, or registrant of the criminal history requirement and obtain a signed waiver from the applicant, licensee, or registrant prior to submitting a criminal history data request.

2. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation and bureau of identification, pursuant to section 692.2, subsection 1. The board may also require such applicants, licensees, and registrants to provide a full set of fingerprints, in a form and manner prescribed by the board. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The board may authorize alternate methods or sources for obtaining criminal history record information. The board may, in addition to any other fees, charge and collect such amounts as may be incurred by the board, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

3. Criminal history information relating to an applicant, licensee, or registrant obtained by the board pursuant to this section is confidential. The board may, however, use such information in a license or registration denial proceeding. In a disciplinary proceeding, such information shall constitute investigative information under section 272C.6, subsection 4, and may be used only for purposes consistent with that section.

4. This section shall not apply to a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

Sec. 189. NEW SECTION. 155A.41 CONTINUOUS QUALITY IMPROVEMENT PROGRAM.

1. Each licensed pharmacy shall implement or participate in a continuous quality improvement program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors and for improving patient use of medications and patient care services. Under the program, each pharmacy shall assess its practices and identify areas for quality improvement.

2. The board shall adopt rules for the administration of a continuous quality improvement program. The rules shall address all of the following:

- a. Program requirements and procedures.
- b. Program record and reporting requirements.
- c. Any other provisions necessary for the administration of a program.

*Approved June 16, 2005, with exceptions noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 882, an Act relating to state and local finances by providing for tax exemptions, credits, tax credit transfers, and other tax-related matters and by making, reducing, and transferring appropriations, providing for fees, providing for wind energy production tax credits, and providing for properly related matters and penalties and including effective and retroactive applicability date provisions.

House File 882 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 65 in its entirety. This section provides a sales tax exemption for construction of residential treatment facilities and is expected to impact two facilities currently under development. Both facilities are receiving a \$250,000 direct state appropriation through House File 875, and I support and approved the state appropriation for construction of both facilities. However, I do not support providing special tax status to two specific projects. This represents bad tax policy and creates a fairness issue with the thousands of other non-profit organizations with equally worthy missions throughout Iowa.

I am unable to approve the item designated as Section 81 in its entirety. This section provides the effective date for the sales tax exemption contained in Section 65, which is vetoed. Therefore, this section is unnecessary.

I am unable to approve the item designated as Section 94, paragraph b, in its entirety. The expansion of the good cause definition for late open enrollment applications was intended to accompany a change to move the authority for determining good cause to the resident district. This bill does not make the change back to the resident district, thereby creating a situation that open enrollment decisions may not be based on the best interest of the student. My administration is committed to working with legislators and stakeholders during the next legislative session to ensure changes to this policy will positively impact all constituents.

I am unable to approve the item designated as Section 106 in its entirety. This section is contingent upon enactment of House File 770, which was vetoed. Therefore, this section is unnecessary.

I am unable to approve the item designated as Section 143 in its entirety. This section makes the effective date of Section 106 contingent upon enactment of House File 770, which was vetoed. Therefore, this section is unnecessary.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 882 are hereby approved this date.

Sincerely,  
THOMAS J. VILSACK, *Governor*

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## CHAPTER 180

### WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 6

**A JOINT RESOLUTION** authorizing the temporary use and consumption of wine in the State Capitol in conjunction with the awards ceremony of the World Food Prize Foundation.

WHEREAS, the State of Iowa has the honor of being the home of the World Food Prize Foundation which annually presents an international award recognizing outstanding individual achievement in improving the quality, quantity, or availability of food in the world; and

WHEREAS, Iowa's unique State Capitol is an optimal location for this awards ceremony of the World Food Prize Foundation and previously served as the ceremony location; and

WHEREAS, wine is customarily served as an accompaniment to the food and entertainment provided at this type of awards ceremony and wine was served when the ceremony was previously held at the State Capitol; and

WHEREAS, under 11 IAC 100.4(8), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine at this type of awards ceremony in the State Capitol; NOW THEREFORE,

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Notwithstanding 11 IAC 100.4(8) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine may be used and consumed within the state capitol at an awards ceremony, to be held on or around October 13, 2005, hosted and organized in whole or in part by the world food prize foundation if the person providing the food and wine at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the state capitol is a private place.

Approved April 19, 2005